



# NASA Procedural Requirements

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**Subject: Implementing The National Environmental Policy Act And Executive Order 12114****Responsible Office: Environmental Management Division**

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## CHAPTER 2. NASA's National Environmental Policy Act Responsibilities

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### 2.1 National Environmental Policy Act

2.1.1 The National Environmental Policy Act (NEPA) is the basic national policy for protecting the human environment (see Appendix C for full text). NEPA sets the Nation's goals for enhancing and preserving the environment (see Section 101; 42 U.S.C. §4331). NEPA also provides the procedural requirements to ensure compliance by all Federal agencies (see Section 102; 42 U.S.C. §4332). NEPA compliance can be a critical path item in project or mission implementation.

2.1.2 NEPA requires all Federal agencies to consider, before an action is taken, environmental values in the planning of actions and activities that may have a significant impact upon the quality of the human environment. NEPA directs agencies to consider alternatives to their proposed activities. In essence, NEPA requires NASA decisionmakers to consider environmental, technical, and economic factors. NEPA is also an environmental disclosure statute. It requires that available information be adequately addressed and made available to NASA decisionmakers in a timely manner so they can consider the environmental consequences of the proposed action or activity. Environmental information must also be made available to the public as well as to other Federal, State, and local agencies.

2.1.3 NEPA does not require that the proposed action or activity be free of environmental impacts, be the most environmentally benign of potential alternatives, or be the most environmentally wise decision. NEPA requires the decisionmaker to consider environmental impacts as one factor in the decision to implement an action.

2.1.4 Title II of NEPA established the President's Council on Environmental Quality (CEQ). All Federal agencies must follow regulations promulgated by CEQ to develop their own policies and regulations to implement NEPA. In addition, CEQ is charged with monitoring the progress of Federal agencies in accomplishing the goals of NEPA.

### 2.2 Council on Environmental Quality Regulations

2.2.1 In 1977, through Executive Order (EO) 11991, CEQ was directed to prepare binding regulations governing how Federal agencies were to implement NEPA. Those regulations, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, were first published in November 1978 with one section amended in 1986. CEQ regulations can be found at 40 CFR Parts 1500-1508 (see Appendix D for full text). CEQ's regulations provide the framework within which every Federal agency develops its policies and regulations for implementing NEPA. An agency's policies and regulations elaborate upon and tailor CEQ regulations to its specific mission and circumstances. Briefly, CEQ regulations require all Federal agencies to do the following:

- a. Implement regulations that ensure that environmental information is available to decisionmakers, public officials, and citizens before decisions are made and actions taken,
- b. Integrate the requirements of NEPA, to the extent practical, with other planning and environmental review statutes and regulations (e.g., historic resources and threatened or endangered species),
- c. Provide for public involvement in decisions that would affect the quality of the human environment, and
- d. Use the NEPA process to identify and assess reasonable alternatives to proposed actions that would avoid or reduce adverse impacts upon the quality of the human environment.

2.2.2 CEQ regulations also provide formal procedures for three levels of NEPA process and documentation to be used by all Federal agencies: Categorical Exclusions (CatEx), Environmental Assessments (EA), and Environmental Impact Statements (EIS). Together, these three levels provide the basic framework for all Federal agency NEPA compliance processes.

### 2.3 Additional CEQ Guidance

2.3.1 CEQ has published additional guidance concerning its NEPA regulations and other related environmental concerns. Table 2-1 summarizes this additional CEQ guidance. All but the guidance on biodiversity and pollution prevention have been implicitly incorporated into the latest update (1986) of CEQ regulations provided in Appendix D.

2.3.2 It should be recognized that the additional CEQ guidance does not have the force of formal regulations. The Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, provided in Appendix G, gives useful guidance that touches on the breadth of NEPA compliance activities that can be undertaken by an agency and sheds added light on EA's. Additional questions and answers concerning NASA NEPA regulations can be found in Appendix K.

Table 2-1. Council on Environmental Quality Guidance

<b>Title of Guidance</b>	<b>Summary of Guidance</b>	<b>Citation</b>	<b>Relevant Regulation/Documentation</b>
Forty Most Often Asked Questions Concerning CEQ's National Environmental Policy Act Regulations	Provides answers to 40 questions most frequently asked concerning implementation of NEPA.	46 FR 18026, dated March 23, 1981	40 CFR Parts 1500-1508 (see Appendix G for full text)
Implementing and Explanatory Documents for Executive Order 12114, Environmental Effects Abroad of Major Federal Actions	Provides implementing and explanatory information for EO 12114. Establishes categories of Federal activities or programs as those that significantly harm the natural and physical environment. Defines which actions are excluded from the order and those that are not.	44 FR 18672, dated March 29, 1979	EO 12114, Environmental Effects Abroad of Major Federal Actions

<p>Publishing of Three Memoranda for Heads of Agencies on:</p> <ul style="list-style-type: none"> <li>- Analysis of Impacts on Prime or Unique Agricultural Lands (Memoranda 1 and 2)</li> <li>- Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory (Memorandum 3)</li> </ul>	<p>1/2 Discusses the irreversible conversion of unique agricultural lands by Federal Agency action (e.g., construction activities, developmental grants, and federal land management). Requires identification of and cooperation in retention of important agricultural lands in areas of impact of a proposed agency action. The agency must identify and summarize existing or proposed agency policies, to preserve or mitigate the effects of agency action on agricultural lands.</p> <p>3 "Each Federal agency shall, as part of its normal planning and environmental review process, take care to avoid or mitigate adverse effects on rivers identified in the Nationwide Inventory prepared by the Heritage Conservation and Recreation Service in the Department of the Interior." Implementing regulations includes determining whether the proposed action: affects an Inventory River; adversely affects the natural, cultural and recreation values of the Inventory river segment; forecloses options to classify any portion of the Inventory segment as a wild, scenic or recreational river area, and incorporates avoidance/mitigation measures into the proposed action to maximum extent feasible within the agency's authority.</p>	<p>45 FR 59189, dated September 8, 1980</p>	<p>1/2 Farmland Protection Policy Act (7 U.S.C. §4201 et seq.)</p> <p>3 The Wild and Scenic Rivers Act of 1965 (16 U.S.C. §1271 et seq.)</p>
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Memorandum for Heads of Agencies for Guidance on Applying Section 404(r) of the Clean Water Act at Federal Projects Which Involve the Discharge of Dredged or Fill Materials into Waters of the U.S. Including Wetlands	Requires timely agency consultation with U.S. Army Corps of Engineers (COE) and the U.S. Environmental Protection Agency (EPA) before a Federal project involves the discharge of dredged or fill material into U.S. waters, including wetlands. Proposing agency must ensure, when required, that the EIS includes written conclusions of EPA and COE (generally found in Appendix).	Council on Environmental Quality, dated November 17, 1980	Clean Water Act (33 U.S.C. §1251 et seq.)  EO 12088, Federal Compliance with Pollution Control Standards
Scoping Guidance	Provides a series of recommendations distilled from agency research regarding the scoping process. Requires public notice; identification of significant and insignificant issues; allocation of EIS preparation assignments; identification of related analysis requirements in order to avoid duplication of work; and the planning of a schedule for EIS preparation that meshes with the agency's decisionmaking schedule.	46 FR 25461, dated May 7, 1981	40 CFR Parts 1500-1508
Guidance Regarding NEPA Regulations	Provides written guidance on scoping, CatEx's, adoption regulations, contracting provisions, selecting alternatives in licensing and permitting situations, and tiering.	48 FR 34263, dated July 28, 1983	40 CFR Parts 1501, 1502, and 1508

National Environmental Policy Act (NEPA) Implementation Regulations, Appendices I, II, and III	Provides guidance on improving public participation, facilitating agency compliance with NEPA and CEQ implementing regulations. Appendix I updates required NEPA contacts, Appendix II compiles a list of Federal and Federal-State Agency Offices with jurisdiction by law or special expertise in environmental quality issues; and Appendix III lists the Federal and Federal-State Offices for receiving and commenting on other agencies' environmental documents.	49 FR 49750, dated December 21, 1984	40 CFR Part 1500
Incorporating Biodiversity Considerations into Environmental Impact Analysis under the National Environmental Policy Act	Provides for "acknowledging the conservation of biodiversity as national policy and incorporates its consideration in the NEPA process"; encourages seeking out opportunities to participate in efforts to develop regional ecosystem plans; actively seeks relevant information from sources both within and outside government agencies; encourages participating in efforts to improve communication, cooperation, and collaboration between and among governmental and nongovernmental entities; improves the availability of information on the status and distribution of biodiversity, and on techniques for managing and restoring it; and expands the information base on which biodiversity analyses and management decisions are based.	Council on Environmental Quality, Washington, DC, dated January 1993	Not applicable

Pollution Prevention and the National Environmental Policy Act	Pollution-prevention techniques seek to reduce the amount and/or toxicity of pollutants being generated, promote increased efficiency of raw materials and conservation of natural resources and can be cost-effective. Directs Federal agencies that to the extent practicable, pollution prevention considerations should be included in the proposed action and in the reasonable alternatives to the proposal, and to address these considerations in the environmental consequences section of an EIS and EA (when appropriate).	58 FR 6478, dated January 29, 1993	EO 12088, Federal Compliance with Pollution Control Standards
Considering Cumulative Effects under the National Environmental Policy Act	Provides a "framework for advancing environmental cumulative impacts analysis by addressing cumulative effects in either an environmental assessment (EA) or an environmental impact statement" . Also provides practical methods for addressing coincident effects (adverse or beneficial) on specific resources, ecosystems, and human communities of all related activities, not just the proposed project or alternatives that initiate the assessment process.	January 1997	40 CFR §1508.7
Environmental Justice Guidance Under the National Environmental Policy Act	Provides guidance and general direction on Executive Order 12898 which requires each agency to identify and address, as appropriate, "disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."	Council on Environmental Quality, Washington, DC, dated December 10, 1997	EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

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